



February 13, 2001

HOUSE BILL No. 1116

DIGEST OF HB 1116 (Updated February 12, 2001 10:46 AM - DI 94)

Citations Affected: IC 36-8.

Synopsis: False alarm charges. Authorizes townships, fire protection territories, fire districts, and volunteer fire departments to impose false alarm fees or service charges. (The introduced version of this bill was prepared by the local government finance study commission.)

Effective: July 1, 2001.

Lytle, Adams T, Saunders, Hinkle

January 9, 2001, read first time and referred to Committee on Local Government.
February 12, 2001, reported — Do Pass.

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HB 1116—LS 6754/DI 92+



February 13, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1116

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-8-11-15 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) The board:
3 (1) has the same powers and duties as a township executive with
4 respect to fire protection functions, including those duties and
5 powers prescribed by IC 36-8-13, although all cooperative and
6 joint actions permitted by that chapter must be undertaken
7 according to this chapter;
8 (2) has the same powers and duties as a township executive
9 relative to contracting with volunteer firefighting companies, as
10 prescribed by IC 36-8-12 and IC 36-8-13;
11 (3) shall appoint, fix the compensation, and prescribe the duties
12 of a fiscal officer, secretarial staff, persons performing special and
13 temporary services or providing legal counsel, and other
14 personnel considered necessary for the proper functioning of the
15 district; however, a person appointed as fiscal officer must be
16 bonded by good and sufficient sureties in an amount ordered by
17 the county legislative body to protect the district from financial

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- 1 loss;
- 2 (4) shall exercise general supervision of and make regulations for
- 3 the administration of the district's affairs;
- 4 (5) shall prescribe uniform rules pertaining to investigations and
- 5 hearings;
- 6 (6) shall supervise the fiscal affairs and responsibilities of the
- 7 district;
- 8 (7) may delegate to employees of the district the authority to
- 9 perform ministerial acts, except in cases in which final action of
- 10 the board is necessary;
- 11 (8) shall keep accurate and complete records of all departmental
- 12 proceedings, record and file all bonds and contracts, and assume
- 13 responsibility for the custody and preservation of all papers and
- 14 documents of the district;
- 15 (9) shall make an annual report to the executive and the fiscal
- 16 body of the county that at least lists the financial transactions of
- 17 the district and a statement of the progress in accomplishing the
- 18 purposes for which the district has been established;
- 19 (10) shall adopt a seal and certify all official acts;
- 20 (11) may sue and be sued collectively by its legal name ("Board
- 21 of Fire Trustees, _____ Fire Protection District"), with
- 22 service of process made on the chairman of the board, but costs
- 23 may not be taxed against the members individually in an action;
- 24 (12) may invoke any legal, equitable, or special remedy for the
- 25 enforcement of this chapter or of proper action of the board taken
- 26 in a court;
- 27 (13) shall prepare and submit to the fiscal body of the county an
- 28 annual budget for operation and maintenance expenses and for the
- 29 retirement of obligations of the district, subject to review and
- 30 approval by the fiscal body;
- 31 (14) may, if advisable, establish one (1) or more advisory
- 32 committees;
- 33 (15) may enter into agreements with and accept money from a
- 34 federal or state agency and enter into agreements with a
- 35 municipality located within or outside the district, whether or not
- 36 the municipality is a part of the district, for a purpose compatible
- 37 with the purposes for which the district exists and with the
- 38 interests of the municipality;
- 39 (16) may accept gifts of money or other property to be used for
- 40 the purposes for which the district is established;
- 41 (17) may levy taxes at a uniform rate on the real and personal
- 42 property within the district;

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1 (18) may issue bonds and tax anticipation warrants;
 2 (19) may incur other debts and liabilities;
 3 (20) may purchase or rent property;
 4 (21) may sell services or property that are produced incident to
 5 the operations of the district making a fair and reasonable charge
 6 for it;
 7 (22) may make contracts or otherwise enter into agreements with
 8 public or private persons and federal or state agencies for
 9 construction, maintenance, or operations of or in part of the
 10 district; ~~and~~
 11 (23) may receive and disburse money; **and**
 12 **(24) may impose a false alarm fee or service charge under**
 13 **IC 36-8-13-4.**

14 (b) Powers granted by this chapter may be used only to accomplish
 15 the purpose or purposes as stated in the ordinance or resolution
 16 establishing the district. However, an act of the board necessary and
 17 proper to accomplish the purposes for which the district is established
 18 is not invalid because it incidentally accomplishes a purpose other than
 19 one for which the district is established.

20 SECTION 2. IC 36-8-12-17 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2001]: **Sec. 17. (a) If a political subdivision has not imposed its**
 23 **own false alarm fee or service charge, a volunteer fire department**
 24 **that provides service within the jurisdiction may establish a service**
 25 **charge for responding to false alarms. The volunteer fire**
 26 **department may collect the false alarm service charge from the**
 27 **owner of the property if the volunteer fire department dispatches**
 28 **firefighting apparatus or personnel to a building or premises in the**
 29 **township in response to:**

30 (1) an alarm caused by improper installation or improper
 31 maintenance; or

32 (2) a drill or test, if the fire department is not previously
 33 notified that the alarm is a drill or test.

34 (b) Before establishing a false alarm service charge, the
 35 volunteer fire department must provide notice under IC 5-3-1-4(d)
 36 in each political subdivision served by the department of the
 37 amount of the false alarm service charge. The notice required by
 38 this subsection must be given:

39 (1) before the false alarm service charge is initiated; and

40 (2) before a change in the amount of the false alarm service
 41 charge.

42 (c) A volunteer fire department may not collect a false alarm



1 service charge from a property owner unless the department's bill
2 for payment of the service charge:

3 (1) is submitted to the property owner in writing within thirty
4 (30) days after the false alarm; and

5 (2) includes a copy of a fire incident report in the form
6 prescribed by the state fire marshal.

7 (d) A volunteer fire department shall use the money collected
8 from the false alarm service charge imposed under this section:

9 (1) for the purchase of equipment, buildings, and property for
10 fire fighting, fire protection, or other emergency services;

11 (2) for deposit in the township firefighting fund established
12 under IC 36-8-13-4; or

13 (3) to pay principal and interest on a loan under IC 22-14-5.

14 (e) If at least twenty-five percent (25%) of the money received
15 by a volunteer fire department for providing fire protection or
16 emergency services is received under one (1) or more contracts
17 with one (1) or more political subdivisions (as defined in
18 IC 34-6-2-110), the legislative body of a contracting political
19 subdivision must approve the false alarm service charge
20 established under subsection (a) before the service charge is
21 initiated in that political subdivision.

22 (f) A volunteer fire department that:

23 (1) has contracted with a political subdivision to provide fire
24 protection or emergency services; and

25 (2) imposes a false alarm service charge under this section;
26 must submit a report to the legislative body of the political
27 subdivision before April 1 of each year indicating the amount of
28 false alarm charges collected during the previous calendar year
29 and how those funds have been expended.

30 (g) The volunteer fire department may maintain a civil action
31 to recover unpaid false alarm service charges imposed under this
32 section.

33 SECTION 3. IC 36-8-13-4 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Each township
35 shall annually establish a township firefighting fund which is to be the
36 exclusive fund used by the township for the payment of costs
37 attributable to providing fire protection or emergency services under
38 the methods prescribed in section 3 of this chapter and for no other
39 purposes. The money in the fund may be paid out by the township
40 executive with the consent of the township legislative body.

41 (b) Each township may levy, for each year, a tax for the township
42 firefighting fund. Other than a township providing fire protection or

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emergency services or both to municipalities in the township under section 3(b) or 3(c) of this chapter, the tax levy is on all taxable real and personal property in the township outside the corporate boundaries of municipalities. Subject to the levy limitations contained in IC 6-1.1-18.5, the township levy is to be in an amount sufficient to pay all costs attributable to fire protection and emergency services that are not paid from other revenues available to the fund. The tax rate and levy shall be established in accordance with the procedures set forth in IC 6-1.1-17.

(c) In addition to the tax levy and service charges received under IC 36-8-12-13 and IC 36-8-12-16, the executive may accept donations to the township for the purpose of firefighting and other emergency services and shall place them in the fund, keeping an accurate record of the sums received. A person may also donate partial payment of any purchase of firefighting or other emergency services equipment made by the township.

(d) If a fire department serving a township dispatches fire apparatus or personnel to a building or premises in the township in response to:

(1) an alarm caused by improper installation or improper maintenance; or

(2) a drill or test, if the fire department is not previously notified that the alarm is a drill or test;

the township may impose a fee or service charge upon the owner of the property.

(e) The amount of a fee or service charge imposed under subsection (d) shall be determined by the township legislative body. All money received by the township from the fee or service charge must be deposited in the township's firefighting fund.

SECTION 4. IC 36-8-19-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) Upon the adoption of identical ordinances under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.



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(b) The fund consists of the following:

(1) All receipts from the tax imposed under this section.

(2) Any money transferred to the fund by the provider unit as authorized under subsection (d).

(3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. After estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The tax under this section is not subject to the tax levy limitations imposed on civil taxing units under IC 6-1.1-18.5. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

(1) the levy in the following year shall be increased by the amount required to be transferred; and

(2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. All participating units must agree to the amount to be transferred by adoption of identical ordinances specifying the amount.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1116, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 11, nays 0.

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